

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

DARLINGTON AMADASU,	:	
	:	NO. 1:01-CV-00182
Plaintiff,	:	
	:	
	:	OPINION AND ORDER
v.	:	
	:	
	:	
MERCY FRANCISCAN HOSPITAL, et	:	
al.,	:	
	:	
Defendants.	:	

This matter is before the Court on the Report and Recommendation in which the assigned Magistrate Judge recommended that Defendants' joint motion for summary judgment and motion to dismiss be granted (doc. 93). For the reasons indicated herein, the Court ADOPTS the Magistrate Judge's Report and Recommendation in its entirety, and GRANTS Defendants' motions for summary judgment (doc. 59) and dismissal (doc. 77).

On March 25, 2001, Plaintiff filed a pro se complaint asserting twenty-two grounds for relief, all related to psychiatric care provided by Defendants at Mercy Franciscan Hospitals (doc. 93). After granting numerous extensions for the benefit of Plaintiff, the Court now must consider Defendants' motion for summary judgment (doc. 59) and Defendants' motion to dismiss this action pursuant to Rules 37(b) and 41 of the Federal Rules of Civil Procedure, as a result of Plaintiff's failure to cooperate in discovery (doc. 77).

In his March 10, 2007 Report and Recommendation concerning these motions, the Magistrate Judge found Defendants' arguments well-taken (doc. 93). First, in reviewing Defendants' motion for summary judgment, the Magistrate Judge found that Plaintiff did not produce any expert testimony to prove causation, and therefore could not establish a prima facie case of medical malpractice (Id.). The Magistrate Judge therefore recommended summary judgment with respect to Plaintiff's malpractice claims (Id.).

Second, the Magistrate Judge addressed Defendants' motion to dismiss for failure to comply with the Court's discovery orders (Id.). The Magistrate Judge noted that "[d]ismissal is an appropriate sanction where the party's failure to cooperate with the court's discovery orders is due to wilfulness" (Id., citing Bass v. Jostens, Inc., 71 F.3d 237, 241 (6th Cir. 1995)). Reviewing Plaintiff's actions and the multiple extensions granted by the Court in this matter, the Magistrate Judge found that Plaintiff intentionally engaged in a clear pattern of delay (Id.). "Given Plaintiff's obstinate refusal to cooperate in discovery or comply with the Court's orders," the Magistrate Judge recommended Defendants' motion to dismiss be granted (Id.). The Court finds the Magistrate Judge's Report and Recommendation well-reasoned, thorough, and correct.

The Parties were served with the Report and

Recommendation and were therefore afforded proper notice of the Magistrate Judge's Report and Recommendation required by 28 U.S.C. § 636(b)(1)(C), including that failure to file timely objections to the Report and Recommendation would result in a waiver of further appeal. See United States v. Walters, 638 F.2d 947, 949-50 (6th Cir. 1981). Neither Party filed any objections thereto within the ten days provided for by Fed. R. Civ. P. 72(b) and 28 U.S.C. § 636(b)(1)(C). While Plaintiff requested, and was granted, an extension to file objections to the Report and Recommendation, he failed to do so (doc. 97).

Having reviewed this matter de novo pursuant to 28 U.S.C. § 636(b), the Court ADOPTS the Magistrate Judge's Report and Recommendation (doc. 93) in its entirety, and therefore, GRANTS Defendants' motions for summary judgment (doc. 59) and dismissal (doc. 77). This civil action is CLOSED.

SO ORDERED.

Dated: July 31, 2007

/s/ S. Arthur Spiegel
S. Arthur Spiegel
United States Senior District Judge